

REMARKS

The claims in this case were restricted into three Groups. Applicants have provisionally elected Group I, claims 25-43. The Restriction Requirement is traversed.

For restriction to be proper, a burden must be placed on the Office in examining all claims. Applicants respectfully submit that assuming the compositions in Group I and the processes in Groups II and III are materially different, the search for all of these would occur in the same classes/subclasses given the fact that the compositions in Group I are essentially the same compositions in the processes of Groups II and III. Thus, the same classes/subclasses would be searched because the same compositions are relevant to all three groups -- no burden would be placed on the Office in searching and/or examining all claims together. This is particularly true for the claims in Group II given that these claims all ultimately depend from claim 25, meaning that the claims in Group II must be considered for rejoinder upon indication of allowable subject matter. See, MPEP § 821.04 (b). Accordingly, the Restriction Requirement is traversed.

Also, Applicants have provisionally elected, for search and examination purposes only, the species of (1) glucose esters (surfactant); (2) disodium salt of N-stearoyl-L-glutamic acid (amphiphilic lipid); and (3) isocetyl stearate (oil). However, the election of species requirement is traversed.

The reason underlying the designation by the Office of the different surfactants, lipids and oils as being patentably distinct is not explained in sufficient detail or by example, and as such represents only a conclusion, particularly in view of the fact that the identified species are related by operation and/or effect. Accordingly, division of each of these species is unsupported and improper. See, MPEP §§ 802.01 and 806.04 (b).

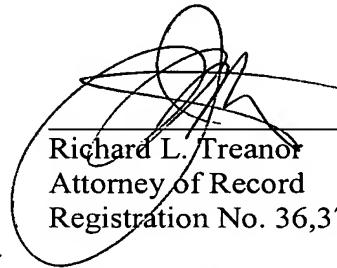
Application No. 10/724,826
Restriction Response

Moreover, for an Election of Species requirement to be proper, a burden must be placed on the Office in examining all species. Applicants respectfully submit that no such burden exists in this case. Even assuming for purposes of argument that the surfactants, lipids and oils are materially different from each other, the search for all such surfactants, lipids and oils would occur in the same classes/subclasses. Thus, no burden would be placed on the Office in searching and/or examining all claims together. Accordingly, the Election of Species Requirement is traversed.

Applicants respectfully submit that the above-identified application is now in condition for examination on the merits.

Respectfully submitted,

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